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January 23, 2023

Via ECF

Honorable Ronnie Abrams, U.S.D.J.
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *Elfe v. 26 Motors Corp., et al.*, 22-CV-9385 (RA)

Dear Judge Abrams:

My office represents the plaintiff, Glenn C. Elfe, in the above-referenced auto-fraud case. I am writing for four reasons:

First, on Friday, January 13, 2023, counsel for Defendant 26 Motors Corp. disclosed the identities of two of the three John Does identified in the complaint: Kyle Merritt and Chino Germinal Lantigua. Plaintiff requests leave to amend the caption and the complaint. A redlined copy of the First Amended Complaint is attached as Exhibit A. Last week, I sent a copy of the proposed amended complaint to counsel for all of defendants who have appeared—*i.e.*, 26 Motors Corp., Wells Fargo Bank, N.A., L.J. Marchese Chevrolet, Inc., and Michelle Bailey—and asked whether they would oppose Plaintiff's motion to amend, but they have not responded.

Second, according to Defendant 26 Motors Corp., Mr. Merritt still works at the Bronx location of 26 Motors, but Mr. Merritt is refusing to waive service. According to 26 Motors, John Doe #2, Chino Germinal Lantigua, is now living in Florida and his current employment address is 19275 NW 2nd Avenue, Miami Gardens, FL 33169. Therefore, Plaintiff is requesting a 60-day extension of time to make formal service on Messrs. Merritt and Lantigua. Making service on Mr. Merritt will require service at Mr. Merritt's place of employment, the 26 Motors dealership in the Bronx. If service cannot be made at Mr. Lantigua's place of employment, Plaintiff may have to do skip-tracing, which will take some time.

Third, Plaintiff advises that he met with two individuals at the dealership who represented themselves as being "Managers," which is why Plaintiff named a John Doe as being a "Manager," in addition to the Finance and Insurance Manager, Kyle Merritt. Counsel for 26 Motors has advised that the file for the auto-sale to Plaintiff—known in the industry as the "deal jacket"—was packed up and has not

yet been retrieved. Nevertheless, on Friday, January 13, 2023, counsel advised that the only “Manager” involved in the sale to Plaintiff was Defendant Kyle Merritt. Accordingly, Plaintiff requests leave to serve preliminary discovery to obtain a copy of the “deal jacket,” as well as a list of all officers, employees, and agents of Defendant 26 Motors Corp. who were working at Defendant 26 Motors Corp. on the date of the sale, so as to determine the identity of the second individual who represented himself as being a “Manager.”

Finally, Defendants 26 Motors Corp., Wells Fargo Bank, N.A., L.J. Marchese Chevrolet, Inc., and Michelle Bailey have all requested an extension of time until January 30, 2023 to answer the complaint. Plaintiff has agreed to this request, subject to the Court’s approval. This extension may not be necessary, however, since if the Court grants the motion to amend the caption and complaint, the defendants that have already appeared will have 14 days to answer the Amended Complaint under Fed. R. Civ. P. 15.

Respectfully,

/s/ Brian L. Bromberg
Brian L. Bromberg

cc: David G. Murphy, Esq. (Via ECF)
Patrick L. Selvey, Esq. (Via ECF)
H. Nicholas Goodman, Esq. (Via ECF)
Thomas R. Breeden, Esq. (Via Email: trb@tbreedenlaw.com)

The Court grants the request to amend the caption and complaint and the request for a 60-day extension on the deadline to serve.

SO ORDERED.

A handwritten signature in blue ink, appearing to read 'Ronnie Abrams', is written over a horizontal line.

Hon. Ronnie Abrams
January 30, 2023